



H.C.P.(MD) No.1352 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.1352 of 2022

Sangeetha

... Petitioner / Sister of Detenuue

Vs.

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 9.
- 2.The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
- 3.The Inspector of Police,
Sethubavachathiram Police Station,
Thanjavur District.
- 4.The Superintendent,
Central Prison,
Tiruchirapalli, Tiruchirapalli District.

...Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to direct the Respondents herein to produce the detenue namely Sarath Kumar, aged about 30 years, S/o. Thangaraj, who has been termed Goonda and detained at Central Prison, Tiruchirapalli, before this Hon'ble High Court and to call for the entire records in relating to the impugned detention order in P.D. No.89 of 2022 dated 23.07.2022 passed by the 2nd Respondent and to set aside the same and set the detenue at liberty.

For Petitioner : Mr.M.S.Jeyakarthish

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioner is the sister of the detenu. This Habeas Corpus Petition has been filed by her to call for the records pertaining to the detention order passed by the 2nd respondent made in P.D. No.89 of 2022, dated 23.07.2022 and quash the same and consequently set the detenu namely Sarath Kumar, aged about 30 years, S/o. Thangaraj, who has been termed Goonda and detained at Central Prison, Tiruchirapalli, at liberty.



2. Heard Mr.M.S.Jeyakarthik, learned counsel appearing for the petitioner, though he has raised several points assailing the impugned order of detention, he has mainly projected the point of delay in slapping the Act 14 of 1982 against the detenu on the basis of the ground case under which he was arrested on 03.05.2022 itself.

3. In this context, he would submit that, there is a delay of 82 days in slapping the Act 14 of 1982, the said delay is not an ordinary delay and such a huge delay has occurred in this case, which has not been properly explained and on that ground the order impugned is liable to be interfered with, he contended.

4. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondents would submit that, only after arrest of the detenu in the ground case on 03.05.2022, on the basis of the confession given by the detenu, his involvement in the earlier two cases of the year 2021 has come to the notice of the sponsoring authority, where the investigation went on, then only, the sponsoring authority having collected all those materials made a recommendation to the detaining authority that,



he is a habitual offender as two cases have already been registered against him, this is the third case, which is shown as a ground case, and if he is allowed to remain at large, it would be detrimental to maintain public order in that locality and therefore, such a request was made, which was accepted by the detaining authority and he passed the order of detention, hence, the delay is explainable one, which has been explained as stated above. Hence, the learned Additional Public Prosecutor seeks the indulgence of this Court to reject the plea of the petitioner.

5. We have considered the said submissions made by the learned counsel appearing for both sides and have also perused the materials placed before this Court.

6. Even though, in the ground case, the detenu was arrested on 03.05.2022, on that date the materials with regard to the filing of the earlier two cases were available to them, assuming that subsequently only based on the confession, the involvement of the detenu has been found out and accordingly they proceeded to investigate the earlier two cases also against the detenu, therefore, there is a delay in coming to such a conclusion by the



sponsoring authority to make a recommendation to the detaining authority, where it has taken 82 days, this Court feels that even for the said purpose, as stated by the learned Additional Public Prosecutor, such a huge delay cannot be occurred.

7. Since the materials were already available as the F.I.R. in the adverse cases were already registered in the year 2021 and the recovery mahazar also is based on the said F.I.R. and everything were available on record, based on which, considerable progress could have been made in the investigation of the earlier two cases, therefore, further taking about 82 days for slapping the Act 14 of 1982 against the detenu cannot be stated as an ordinary delay for which the explanation given by the respondents cannot be accepted by this Court, hence, on that ground the impugned detention order would not be sustained.

8. In the result, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in P.D.No.89 of 2022 dated 23.07.2022, is set aside. Consequently, the detenu, namely, Sarathkumar, son of Thangaraj, aged about 30 years, who is now detained at Central



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Prison, Tiruchirapalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

(R.S.K., J.) & (K.K.R.K, J.)
26.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SJ

To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 9.

2.The District Collector and District Magistrate,
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Thanjavur.

3.The Inspector of Police,
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4.The Superintendent,
Central Prison,
Tiruchirapalli, Tiruchirapalli District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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